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EXAMINER

PARTON, KEVIN S

ART UNIT

PAPER NUMBER

2153

DATE MAILED: 11/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/492,846

Applicant(s)

RONNING ET AL.

Examiner

Kevin Parton

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-122 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15,34-48,67-81 and 122 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 16-33,49-66 and 82-121 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-14, 34-48, 67-81, and 122, drawn to a system for selectively downloading a file in portions, classified in class 709, subclass 231.
 - II. Claims 16-24, 49-57, and 82-90, drawn to a system for scheduling the search for updates or downloads of a file, classified in class 709, subclass 217.
 - III. Claims 25-33, 58-66, and 91-99, drawn to a system for using application signatures for the identification of files, classified in class 709, subclass 245.
 - IV. Claims 100-121, drawn to a screen display for showing the status of a file download, classified in class 345, subclass 736.
2. The inventions are distinct, each from the other because of the following reasons:
3. Inventions I and II-IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as in a system for downloading a file in which it is unnecessary to search for that file or for updates (as disclosed in invention II), where the files are identified in some manner not specified or distinctly different from the use of application signatures (as disclosed in invention III), and where the visualization of the download process is either unnecessary or provided through means other than a screen display (as disclosed in invention IV). See MPEP § 806.05(d).
4. Inventions II and III-IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be

separately usable. In the instant case, invention II has separate utility such as in a system for the scheduling of file downloads and searching for updates where the files are identified in some manner not specified or distinctly different from the use of application signatures (as disclosed in invention III), and where the visualization of the download process is either unnecessary or provided through means other than a screen display (as disclosed in invention IV). See MPEP § 806.05(d).

5. Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as a system where files are identified using an application signature but wherein download progress is either not necessary or where the progress is visualized in some manner other than a screen display (as disclosed in invention IV). See MPEP § 806.05(d).

6. During a telephone conversation with Lance Vietzke on 11/5/2002 at (303)352-1112 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-15, 34-48, 67-81, and 122. Affirmation of this election must be made by applicant in replying to this Office action. Claims 16-33, 49-66, 82-121 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. Claims 1, 8, 9, 10, 12, 34, 41, 42, 43, 67, 74, 75, and 76 are rejected under 35 U.S.C. 102(e) as being anticipated by Dujari (USPN 6,199,107).

10. Regarding claims 1, 34, and 67, Dujari (USPN 6,199,107) teaches a system for downloading a file in multiple portions, at least a portion of the file having been previously received (column 1, lines 34-39) with means for:

- a. Transmitting a request to download a file, the request including an identification of the file and an indication of starting point for transmission of the file (column 4, lines 65-67; column 7, lines 23-35). Note that in the reference, the client requests a partial file by name and in the range of bytes needed, specifies the byte number at which transmission of the file should start.

- b. Receiving a serial transmission of digital information for the file beginning at the starting point (column 8, lines 13-21). Note that in the reference, the portion of the file requested is sent back to the serial port starting from the byte at which the requested range started.
- c. Appending the digital information to the previously-received portion of the file (column 8, lines 13-21). Note that in the reference, after receiving the portion of the file, it is merged, or appended into the existing portions of the file.
- d. Storing the received digital information (column 8, lines 24-28). Note that either the entire file or just the portion that has been received is stored.

11. Regarding claims 8, 41, and 74, Dujari (USPN 6,199,107) teaches all the limitations as applied to claims 1, 34, and 67, respectively. He further teaches means for selectively installing the file after completion of the downloading (column 8, lines 29-46). Note that in the reference, the file, if completely downloaded, is prepared for use by the client application and delivered, this is considered the same as installing the file.

12. Regarding claims 9, 42, and 75, Dujari (USPN 6,199,107) teaches all the limitations as applied to claims 1, 34, and 67, respectively. He further teaches means wherein the transmitting step includes transmitting a uniform resource locator as the identification of the file (column 4, line 22). Note that in the reference, the request from the client is through the network interface that uses URLs to access the remote files. These URLs are then converted client side for use on the client.

13. Regarding claims 10, 43, and 76, Dujari (USPN 6,199,107) teaches all the limitations as applied to claims 1, 34, and 67, respectively. He further teaches means for receiving an end of file indication upon completion of the downloading of the entire file (column 8, lines 29-31; figure 7). Note that the response notes that the end of the file has been reached by acknowledging the final byte that was downloaded.

14. Regarding claims 12, 45, and 78, Dujari (USPN 6,199,107) teaches all the limitations as applied to claims 1, 34, and 67, respectively. He further teaches means wherein the transmitting step includes transmitting the starting point based on a size of the previously-received portion of the file (figure 9; column 6, lines 7-12; column 7, lines 10-11). Note that in the reference, an initial amount of data was sent, based on the size of this amount, the start point for the remainder of the file is set.

15. Regarding claim 122, teaches a system for downloading a file in multiple portions with means for:

- a. Downloading a first portion of the file (column 1, lines 34-39).
- b. Subsequently transmitting a request to continue downloading the file (column 4, lines 65-67; column 7, lines 23-35). Note that in the reference, the client requests a partial file by name and in the range of bytes needed, specifies the byte number at which transmission of the file should start.
- c. Downloading a second portion of the file (column 8, lines 13-21). Note that in the reference, the portion of the file requested is sent back to the serial port starting from the byte at which the requested range started.

- d. Appending the first portion of the file to the second portion of the file (column 8, lines 13-21). Note that in the reference, after receiving the portion or the file, it is merged, or appended into the existing portions of the file.

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 2, 3, 4, 11, 35, 36, 37, 44, 68, 69, 70, and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dujari (USPN 6,199,107) in view of Casagrande et al. (USPN 6,049,892).
18. Regarding claims 2, 35, and 68, although the system disclosed by Dujari (USPN 6,199,107) (as applied to claims 1, 34, and 67, respectively) shows substantial features of the claimed invention, it fails to disclose means wherein the receiving step includes receiving a stream of bytes.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Dujari (USPN 6,199,107), as evidenced by Casagrande et al. (USPN 6,049,892).

In an analogous art, Casagrande et al. (USPN 6,049,892) disclose a system for downloading a file in portions from a server to a client wherein the receiving step includes receiving a stream of bytes (figure 3; column 4, lines 44-47). Note that in the reference, data is sent as bytes, and in one embodiment is specifically sent in a stream.

Given the teaching of Casagrande et al. (USPN 6,049,892), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Dujari (USPN 6,199,107) by employing the use of a stream of bytes in transferring the downloaded data. The use of a stream of bytes ensures that partially downloaded data will be sent in order and that only a start point will be required to restart transmission. This benefits the system by removing the need for monitoring the files for completeness saving computational time.

19. Regarding claims 3, 36, and 69, Dujari (USPN 6,199,107) teaches all the limitations as applied to claims 2, 35, and 68, respectively. He further teaches means wherein the storing step includes storing the received bytes in a temporary folder (figure 10). Note that in the reference, when a response is complete (or an incomplete partial response) the results are cached and then returned to the requesting application if necessary. The cache in this example is the temporary folder.

20. Regarding claims 4, 37, and 70, Dujari (USPN 6,199,107) teaches all the limitations as applied to claims 2, 35, and 68, respectively. They further teach means wherein the transmitting step includes transmitting a start byte number as the indication of the starting point (figure 6; column 7, lines 23-36). Note that in the reference, the requested range starts with the start byte and an end byte does not have to be transmitted.

21. Regarding claims 11, 44, and 77, Dujari (USPN 6,199,107) teaches all the limitations as applied to claims 2, 35, and 68, respectively. He further teaches means for tracking numbers of bytes transmitted for the file (figure 11). Note that in the reference, the incoming file is monitored for interruption and if the full number of expected bytes is not reached, the partial content is stored.

22. Claims 5, 6, 7, 13, 14, 15, 38, 39, 40, 46, 47, 48, 71, 72, 73, 79, 80, and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dujari (USPN 6,199,107) in view of Lavey, Jr. et al. (USPN 6,023,698).

23. Regarding claims 5, 38, and 71, although the system disclosed by Dujari (USPN 6,199,107) (as applied to claims 1, 34, and 67, respectively) shows substantial features of the claimed invention, it fails to disclose means for providing a visual indication of an amount of the file downloaded.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Dujari (USPN 6,199,107), as evidenced by Lavey, Jr. et al. (USPN 6,023,698).

In an analogous art, Lavey, Jr. et al. (USPN 6,023,698) discloses a system for download of files from a server to a client with means for providing a visual indication of an amount of the file downloaded (figure 2c).

Given the teaching of Lavey, Jr. et al. (USPN 6,023,698), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Dujari (USPN 6,199,107) by employing the visualization of the amount of the file that has been downloaded. This allows the user to estimate how much time will be required for completion of the file, also the see that file download is still taking place. This benefits the system by preventing the user from canceling an active but slow download by showing that progress is being made.

24. Regarding claims 6, 39, and 72, although the system disclosed by Dujari (USPN 6,199,107) (as applied to claims 1, 34, and 67, respectively) shows substantial features of the

claimed invention, it fails to disclose means for displaying an expanding status bar that provides in realtime an indication of the amount of the file downloaded during the receiving step.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Dujari (USPN 6,199,107), as evidenced by Lavey, Jr. et al. (USPN 6,023,698).

In an analogous art, Lavey, Jr. et al. (USPN 6,023,698) discloses a system for download of files from a server to a client with means for displaying an expanding status bar that provides in realtime an indication of the amount of the file downloaded during the receiving step. (figure 2c).

Given the teaching of Lavey, Jr. et al. (USPN 6,023,698), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Dujari (USPN 6,199,107) by employing the visualization of the amount of the file that has been downloaded. This allows the user to estimate how much time will be required for completion of the file, also the see that file download is still taking place. This benefits the system by preventing the user from canceling an active but slow download by showing that progress is being made.

25. Regarding claims 7, 40, and 73, although the system disclosed by Dujari (USPN 6,199,107) (as applied to claims 5, 38, and 71, respectively) shows substantial features of the claimed invention, it fails to disclose means for providing an indication that the entire file has been downloaded.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Dujari (USPN 6,199,107), as evidenced by Lavey, Jr. et al. (USPN 6,023,698).

In an analogous art, Lavey, Jr. et al. (USPN 6,023,698) disclose a system for download of files from a server to a client with means for providing an indication that the entire file has been downloaded (figure 2c). Note that the status bar in the reference includes a percent complete. A 100% complete notation here would be an indication that the full file has been received.

Given the teaching of Lavey, Jr. et al. (USPN 6,023,698), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Dujari (USPN 6,199,107) by giving an indication that the download of the file is complete. This allows the user to begin viewing or using the file as quickly as possible without any confusion as to whether or not the file is completely downloaded. This benefits the system by preventing the user from attempting to use incomplete files or waiting longer than necessary to use complete files.

26. Regarding claims 13, 46, and 79, although the system disclosed by Dujari (USPN 6,199,107) (as applied to claims 1, 34, and 67, respectively) shows substantial features of the claimed invention, it fails to disclose means for displaying a status of the downloading of the file.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Dujari (USPN 6,199,107), as evidenced by Lavey, Jr. et al. (USPN 6,023,698).

In an analogous art, Lavey, Jr. et al. (USPN 6,023,698) disclose a system for download of files from a server to a client with means for displaying a status of the downloading of the file

(figure 2c). Note that in the reference, the status is shown by the amount of the file that has been downloaded.

Given the teaching of Lavey, Jr. et al. (USPN 6,023,698), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Dujari (USPN 6,199,107) by employing the visualization of the status of the downloading file. This allows the user to estimate how much time will be required for completion of the file, also the see that file download is still taking place. This benefits the system by preventing the user from canceling an active but slow download by showing that progress is being made.

27. Regarding claims 14, 47, and 80, although the system disclosed by Dujari (USPN 6,199,107) (as applied to claims 13, 46, and 79, respectively) shows substantial features of the claimed invention, it fails to disclose means for displaying in indication that the file is ready to be downloaded, in progress during a download, successfully downloaded, or has a canceled download.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Dujari (USPN 6,199,107), as evidenced by Lavey, Jr. et al. (USPN 6,023,698).

In an analogous art, Lavey, Jr. et al. (USPN 6,023,698) disclose a system for download of files from a server to a client with means for displaying in indication that the file is ready to be downloaded, in progress during a download, successfully downloaded, or has a canceled download (figure 2c). Note that in the reference, all of these can be determined by selecting the file and then viewing the download of the file. In terms of cancellation, both Dujari (USPN

6,199,107) and Lavey, Jr. et al. (USPN 6,023,698) teach that a message of interruption will be returned.

Given the teaching of Lavey, Jr. et al. (USPN 6,023,698), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Dujari (USPN 6,199,107) by employing the return of several status parameters to the user. This allows the user to estimate how much time will be required for completion of the file, also the see that file download is still taking place. This benefits the system by preventing the user from canceling an active but slow download by showing that progress is being made.

28. Regarding claims 15, 48, and 81, Dujari (USPN 6,199,107) teaches all the limitations as applied to claims 13, 46, and 80, respectively. He further teaches means for receiving settings for parameters related to control of the downloading of the file (figure 4-8). Note that in the reference, the returned information specifies byte number and type of communication.

Conclusion

29. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see the following:

- a. Romrell (USPN 6,396,805) – A system for recovery from an interrupt in data transmission.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Parton whose telephone number is (703)306-0543. The examiner can normally be reached on M-F 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703)305-4792. The fax phone numbers for the

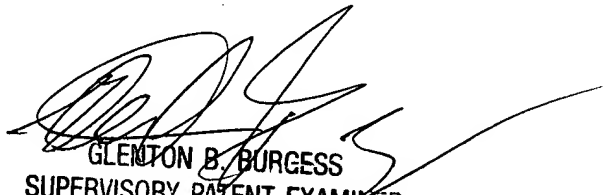
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organization where this application or proceeding is assigned are (703)746-9242 for regular communications and (703)746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Kevin Parton
Examiner
Art Unit 2153

ksp
November 7, 2002



GLENDON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

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